

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-593

May 26, 2000

NEW ENGLAND FIBER COMMUNICATIONS, L.L.C.
D/B/A BROOKS FIBER
Proposed Tariff Revision to Introduce Regional
Exchange (RX) Service

ORDER DISAPPROVING
PROPOSED SERVICE
(PART I)

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

At our deliberations held on May 16, 2000, we decided to reject the filing in this docket by New England Fiber Communications, L.L.C. d/b/a Brooks Fiber that proposed a "regional exchange" (RX) service. We find that the proposed changes to Brooks' rate schedules and its terms and conditions are not just and reasonable. We will state our reasons for disapproving the filing in a Part II Order that we will issue shortly. See Chapter 110, § 1003(b).

Brooks is presently offering essentially the same service that it proposed in its filing to a limited number of internet service provider (ISP) customers. That service was not authorized by the Commission and is unlawful. However, the ISP customers arguably have relied on the continued provision of that service. Reasonable alternatives to that service that are being developed are not yet available. As will be explained in an order that we will issue in *Maine Public Utilities Commission, Investigation into Use of Central Office Codes (NXXs) by New England Fiber Communications, LLC d/b/a Brooks Fiber*, Docket No. 98-758, we will order incumbent local exchange carriers to provide a service that is a reasonable substitute for the service proposed by Brooks that we have rejected. Accordingly, for a six-month period from the date of this Order, Brooks may continue to offer the service that it is presently offering, but only to its existing customers. Brooks shall file special contracts with those customers for approval pursuant to 35-A M.R.S.A. § 703(3-A) or it may file a rate schedule and terms and conditions that apply only to the present customers. The contracts or rate schedules shall state that the service will be available only for a period of six months from the date of this Order, subject to modification by further order of the Commission. Brooks may provide reasonable additional quantities of the service to the existing customers, but only upon approval of the Commission and only if, in doing so, Brooks does not require the use of any further NXX codes or additional blocks of 1000 numbers within the existing 54 non-Portland codes that it is presently using.

Accordingly, we

1. FIND, pursuant to 35-A M.R.S.A. § 310, that the proposed changes to the rate schedules and terms and conditions of the New England Fiber Communications L.L.C. contained in Maine PUC Tariff No. 1:

5th Revised Page 1.1 (cancels 4th Revised Page 1.1)
2nd Revised Page 12.1 (cancels 1st Revised Page 12.1)
1st Revised Page 12.4 (cancels Original 12.4)
1st Revised Page 12.5 (cancels Original 12.5)
1st Revised Page 12.6 (cancels Original Page 12.6)
Original Page 12.7

are UNJUST AND UNREASONABLE and we ORDER that they will not become effective;

2. ORDER New England Fiber Communications L.L.C. to file special contracts, for approval under 35-A M.R.S.A. § 703(3-A), or rate schedules and terms and conditions, for a limited continuation of its existing service that is similar to the disapproved service, as described in the body of this Order;

3) ORDER New England Fiber Communications L.L.C. to make the filing or filings described in paragraph 2 on or before June 14, 2000.

Dated at Augusta, Maine, this 26th day of May, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond